

APPLICANT: CLIFFORD BRAUN AND DEREK WOODKE
SERIAL NO: 09/640,557
FOR: TREE STAND
FILED: AUGUST 18, 2000
EXAMINER: SHARON LATIMER
GROUP NO: 3634

SAGINAW, MICHIGAN
JULY 9, 2004

TO: U.S. COMMISSIONER OF PATENTS

AFFIDAVIT UNDER 37 CFR 1.131

The undersigned Applicants being first duly sworn, depose and say as follows:

We are the inventors of the tree stand illustrated, described and claimed in U.S. Patent Application Serial No. 09/640,557 filed in the Patent Office on August 18, 2000.

In the action dated August 15, 2003, the Examiner cited U.S. Patent No. U.S. 6,505,707 B1 issued January 14, 2003 in rejecting certain claims.

The aforesaid U.S. Patent No. '707 was filed in the U.S. Patent Office on September 3, 1999 and claimed priority of U.S. Provisional Application Serial No. 60/099 filed in the U.S. Patent Office on September 3, 1998.

Applicants' invention, which was disclosed and claimed in the aforesaid application, was conceived and reduced to practice in the United States and/or conceived prior to the effective date of the '707 reference and, with due diligence from prior to September 3, 1998 subsequently reduced to practice in the United States.

That in support of this Affidavit, attached hereto and made a part hereof, are Exhibits 1-8 of photos and photocopies of drawings, records and models of the invention. These drawings were drawn in the United States prior to September 3, 1998, and the models and tree stand fabricated prior to the effective date of Patent No. US 6,505,707 B1. In explaining the affidavits, Applicants have written various reference characters on these exhibits to identify parts which correspond to the parts identified by identical reference characters in Applicants' patent application.

Exhibit 1 is a photo of the original model of the platform 13 which Applicants invented and placed on a pre-existing stand in the United States to demonstrate the basic concept and conception of the platform which will have an access opening from the bottom through an access door mounted thereon. The platform 13 illustrated in Exhibit 1 was completed long prior to September 3, 1998.

In Exhibit 1, the "doors" do not actually open, but were built to demonstrate the concept.

Exhibit 2 is a photocopy of a concept drawing which was prepared in the United States by Applicants after the preparation of Exhibit 1 but prior to September 3, 1998.

Exhibit 2 includes Figs. 2, 2A, 2B and 2C. Figs. 2 and 2A represent top plan and side views, respectively of the tree stand platform, generally designated 13, including a frame, generally designated 38, having front and rear frame members 40 and 42 spanned by laterally spaced apart angle members 44 and 46 provided with horizontal flanges 41 and 43, respectively. The frame members 40, 42, 44 and 46 form an access passage or opening 53 through which an individual can upwardly or downwardly pass to gain access to or remove from, the upperside of the platform 13.

The rear frame bar 42 of Fig. 2 includes mounting brackets 25 for pivotally mounting the base 13 on a back frame, generally designated 14 (Fig. 3).

A pair of platform doors 48 and 50, each including a screen 62, are pivotally mounted on the frame members 40 and 42 for swinging movement between the closed positions, illustrated in Fig. 2C, and open positions, illustrated in Fig. 2B of Exhibit 2. Figures 2B and 2C correspond to Figs. 10 and 9, respectively, of the Applicants' application. Mounted on the rear of the platform frame bar 42 of the platform frame 38 is a pair of tree receiving brackets, generally designated 66 and 68, which form rearwardly diverging surfaces 70 and 72, respectively, for bearing against a tree trunk.

Exhibit 3 includes Figs. 3, 3A and 3B which were prepared in the United States. Figs. 3 and 3B are front and side elevational views, respectively, of the back of the chair 11 which conceptually illustrate the back of the chair including a pair of upstanding laterally spaced apart rearwardly upwardly inclined frame bars 17 provided with lower vertical ends 19 for pivotally mounting on the brackets 25 (Fig. 1) of the base. The frame bars 17 in Fig. 3 includes upwardly converging portions 21 mounting a back rest which includes a generally rectangular back frame 14 having upper and lower bars 16 coupled to a pair of vertical side bars 18 via corner elbows 20.

Fig. 3B illustrates an isometric view of the frame bars 17 and the upwardly converging portions 21.

Exhibit 4 includes Fig. 4A which is a top plan view of the pivotal seat frame; Fig. 4B which is a side view thereof; and Fig. 4C is a perspective view thereof. Fig. 4A illustrates the chair seat, generally designated 30, having a pair of mounts 32 for coupling to the back frame members 18.

Exhibit 5 is a photograph of a wood model which was constructed after the structure illustrated in Exhibit 1 was constructed, but prior to the construction illustrated in the remaining exhibits and prior to September 3, 1998. Exhibit 5 illustrates a frame member 44 having a flange 45 for swingably mounting one of the doors 48 having side frame members 60 spanned by end frame members 54.

Exhibit 6 is a photograph of a tree stand which was constructed after the construction of Exhibits 1-5 but prior to September 3, 1998. Exhibit 6 illustrates the platform 13 pivotally mounted on the upwardly inclined back frame members 17 and including a pair of doors 48 and 50 having a screen mesh 62 thereon. This exhibit further illustrates the upstanding frame bars 17 mounting the back frame 14A which has a slightly different shape than the back frame illustrated in Exhibit 7 but is generally similar thereto.

Exhibit 7 is a photograph of the platform 13 of Exhibit 6 with back frame members 17 mounting a rectangular frame 14 which is slightly different than the back frame 14A but is generally similar to the back frame 14 of the invention disclosed in Applicants' patent application. Exhibit 7 also illustrates the seat 30 mounted on the frame bars 32. Also illustrated in Exhibit 7 are the remaining frame bars generally identified by the reference character F which was not completed until after September 3, 1998 but prior to September 3, 1999.

Exhibit 7 further illustrates the flaccid cables 65 coupled to the back frame members 18 and the laterally outer side frame members 44 and 46 for supporting the platform 13 on the back frame members 14. To preclude its downward swinging movement beyond the horizontal position illustrated in Exhibits 6 and 7. Also, Exhibit 7 illustrates the flaccid lines

36 coupled between the end frame members 18 and the seat 30 to prevent downward swinging movement of the seat 30 between a horizontal position.

Exhibit 8 is a photo illustrating the alternate embodiment (illustrated in Figs. 13-16 of the patent application) and is generally designated 10A which includes front and rear doors 48A and 50A. The front door 48A includes a pair of laterally spaced apart tubular bars 88 having front ends 90 coupled to the front frame bar 40A. A plurality of laterally extending tubular frame bars 96 are mounted on the bars 88 to the top side of the bars 88 for supporting, in the position illustrated, a person standing thereon. The rear door 50A is illustrated as including a pair of laterally spaced tubular bars 98 supporting a plurality of longitudinal cross bars 100. The front ends 102 of the bars 98 are coupled to the rear ends 104 of the tubular bars 98. The doors are folded from the coplanar positions illustrated in Exhibit 8 to upstanding folded coextensive positions along side each other.

All of the subject matter in all exhibits and all of the structure illustrated in each exhibit were prepared and/or constructed in the United States of America prior to September 3, 1998.

DATED: 7/15/04

DATED: 7/15/04


STATE OF MICHIGAN)
) §
COUNTY OF HURON)


CLIFFORD BRAUN

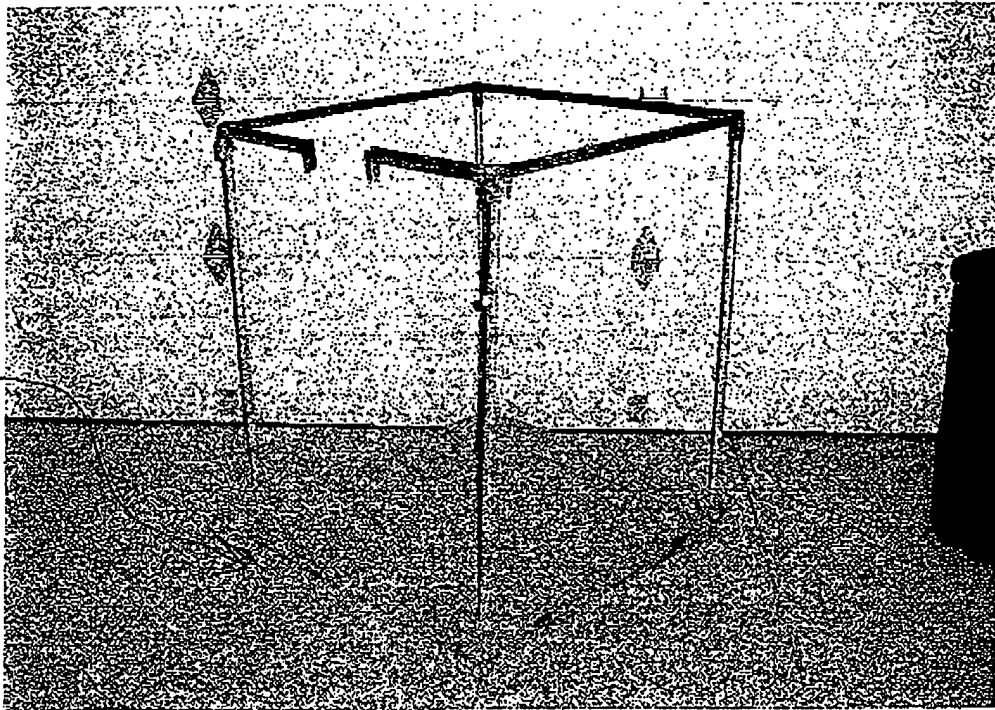

DEREK WOODKE

Subscribed and sworn to before me this 15th day of July, 2004. ...

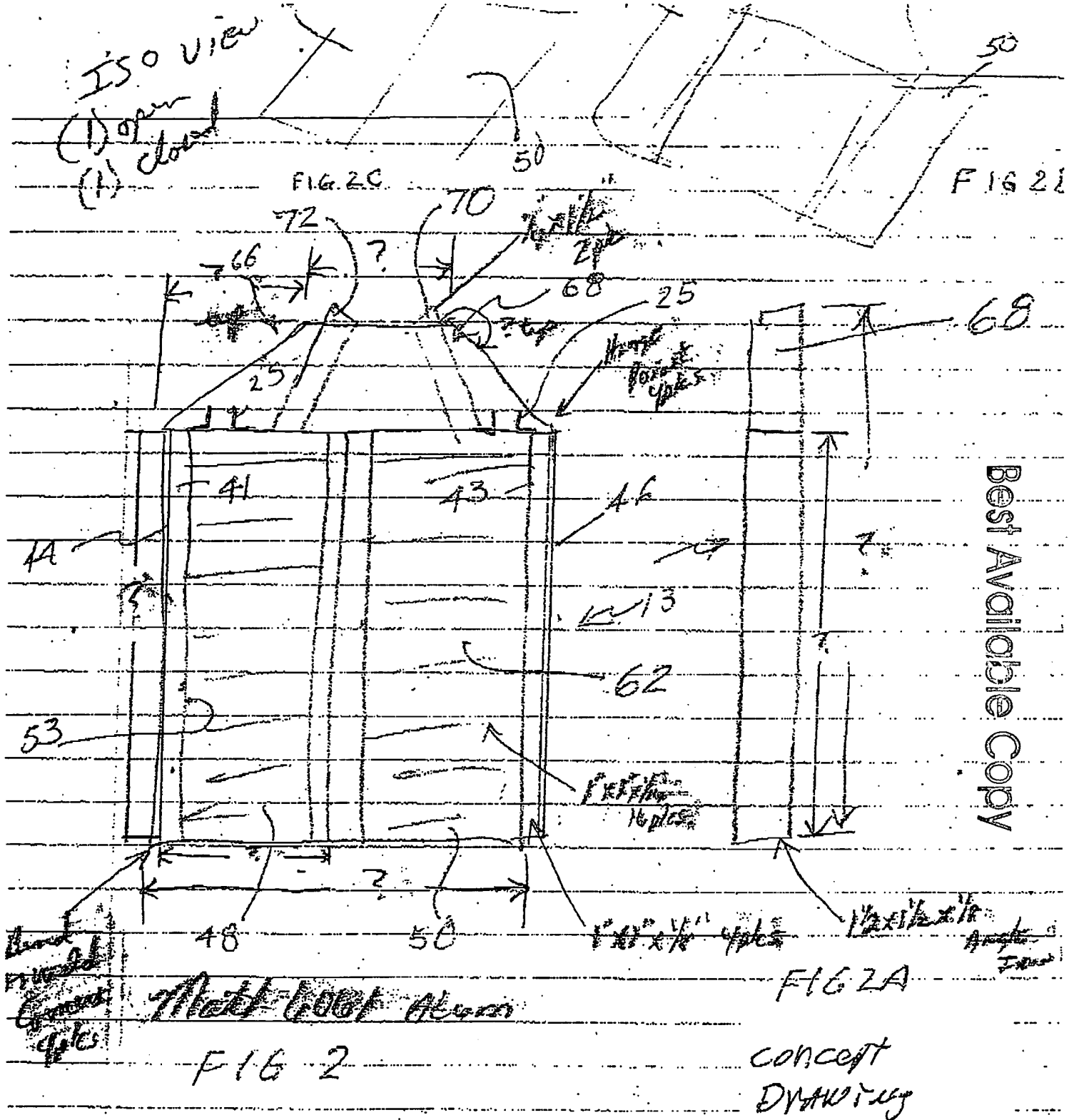
DAVINA MAURER
Notary Public, Huron County, MI
My Commission Expires - Dec. 1, 2004

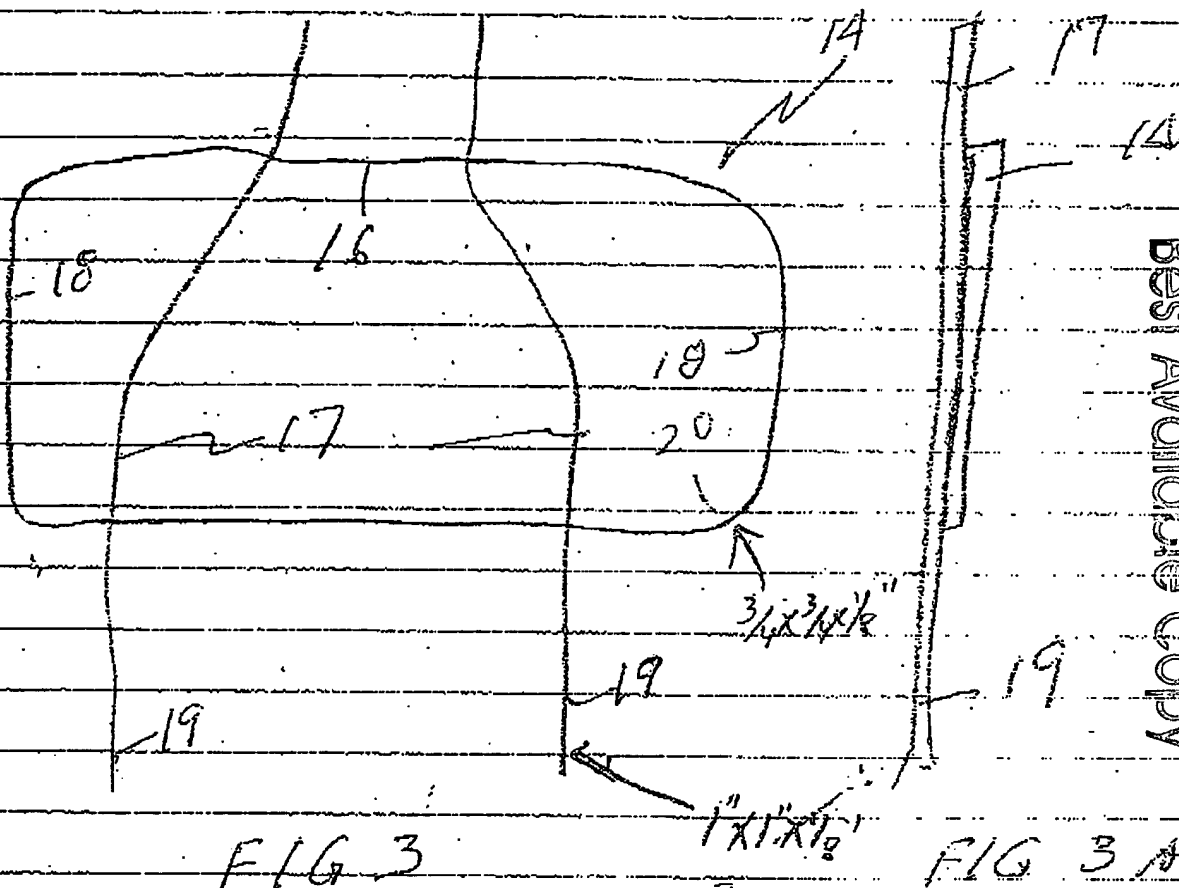
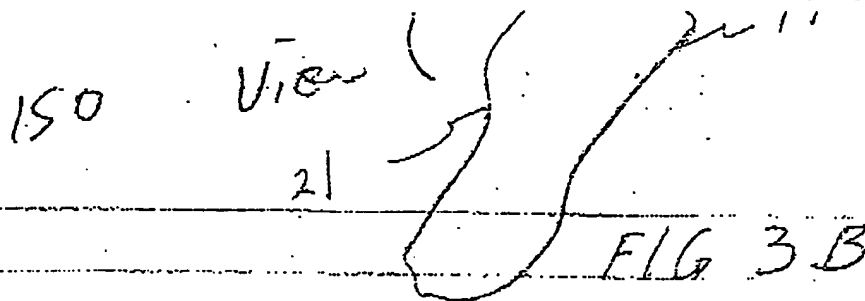

Davina Maurer Notary Public
Acting in the County of Huron, Michigan
My Commission Exp: 12-1-04

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13





Mot 6063 ALUM

CONCEPT
DRAWING

Iso

View

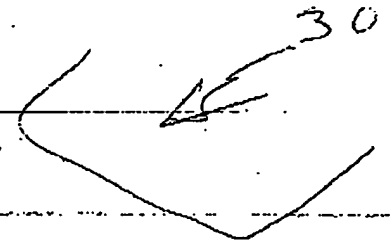


FIG 4C

30

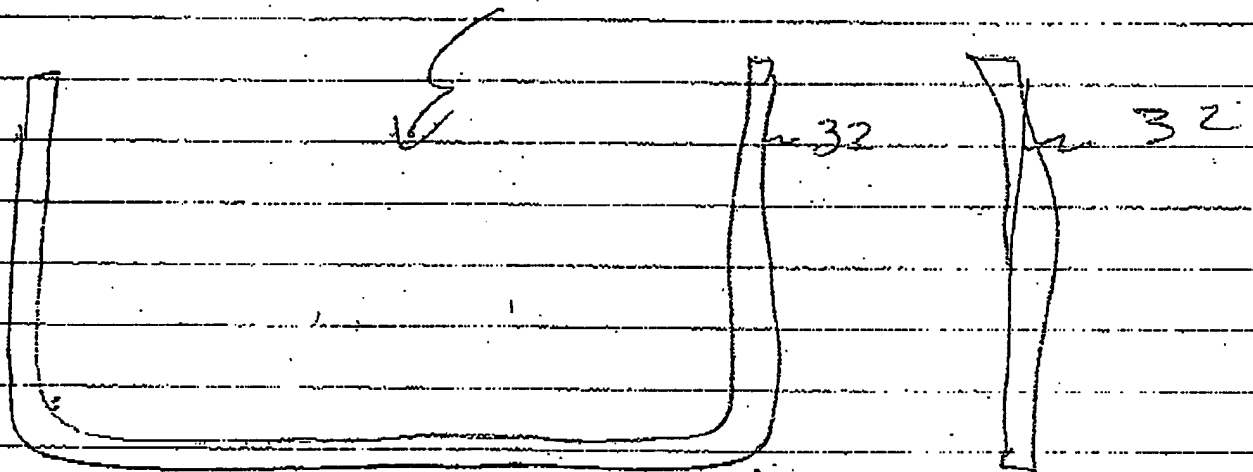


FIG 4A

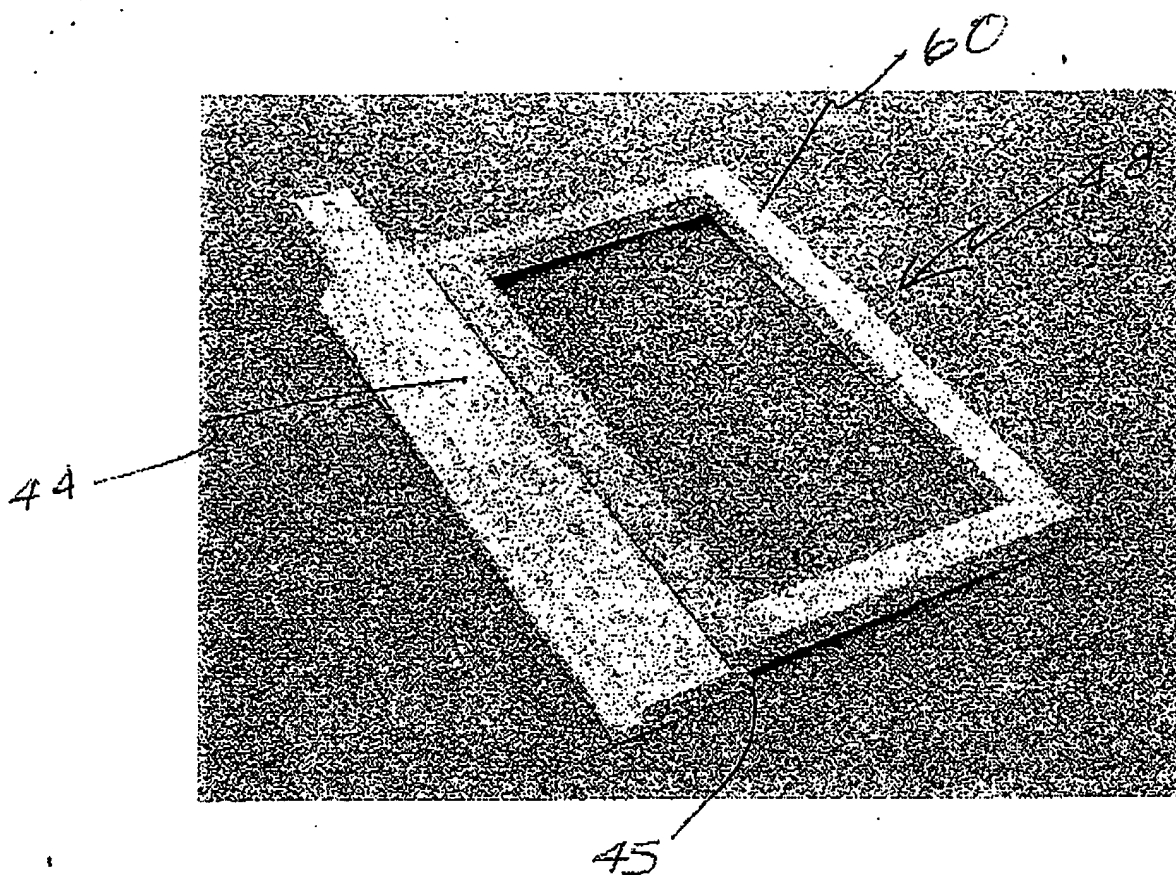
FIG 4B

$\frac{3}{4} \times \frac{3}{4} \times \frac{1}{8}$

Matl 6063 Alum

CONCEPT
DRAWING

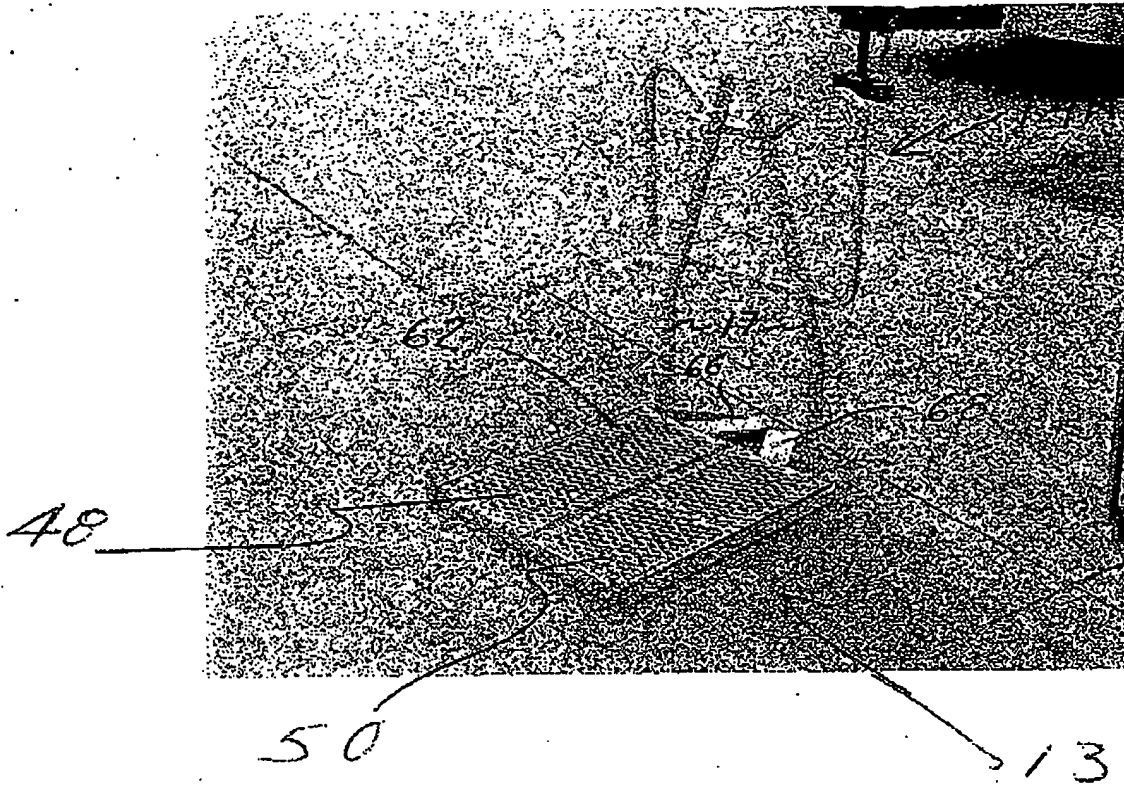
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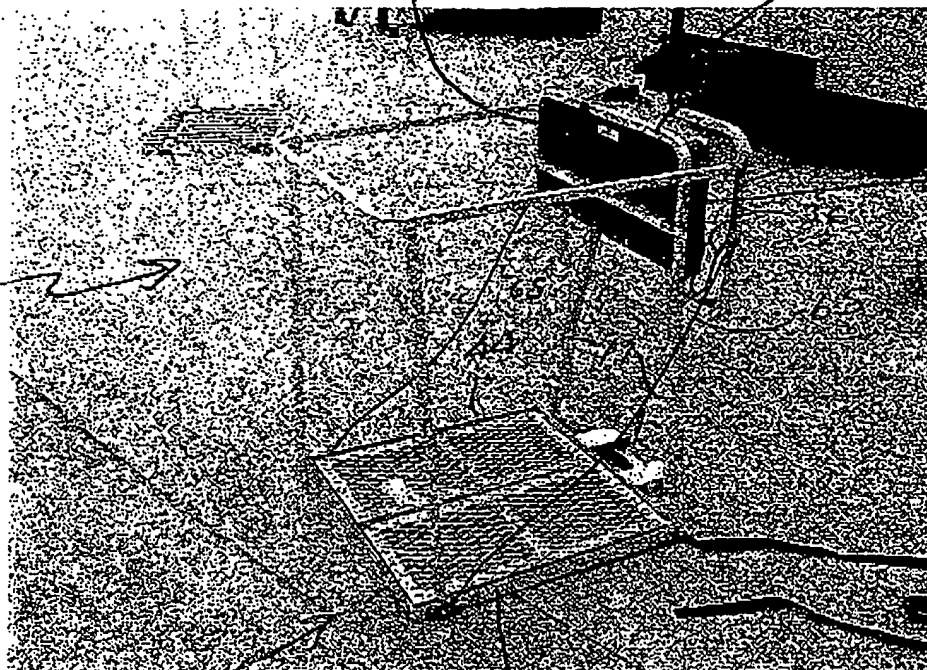
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EXH 5

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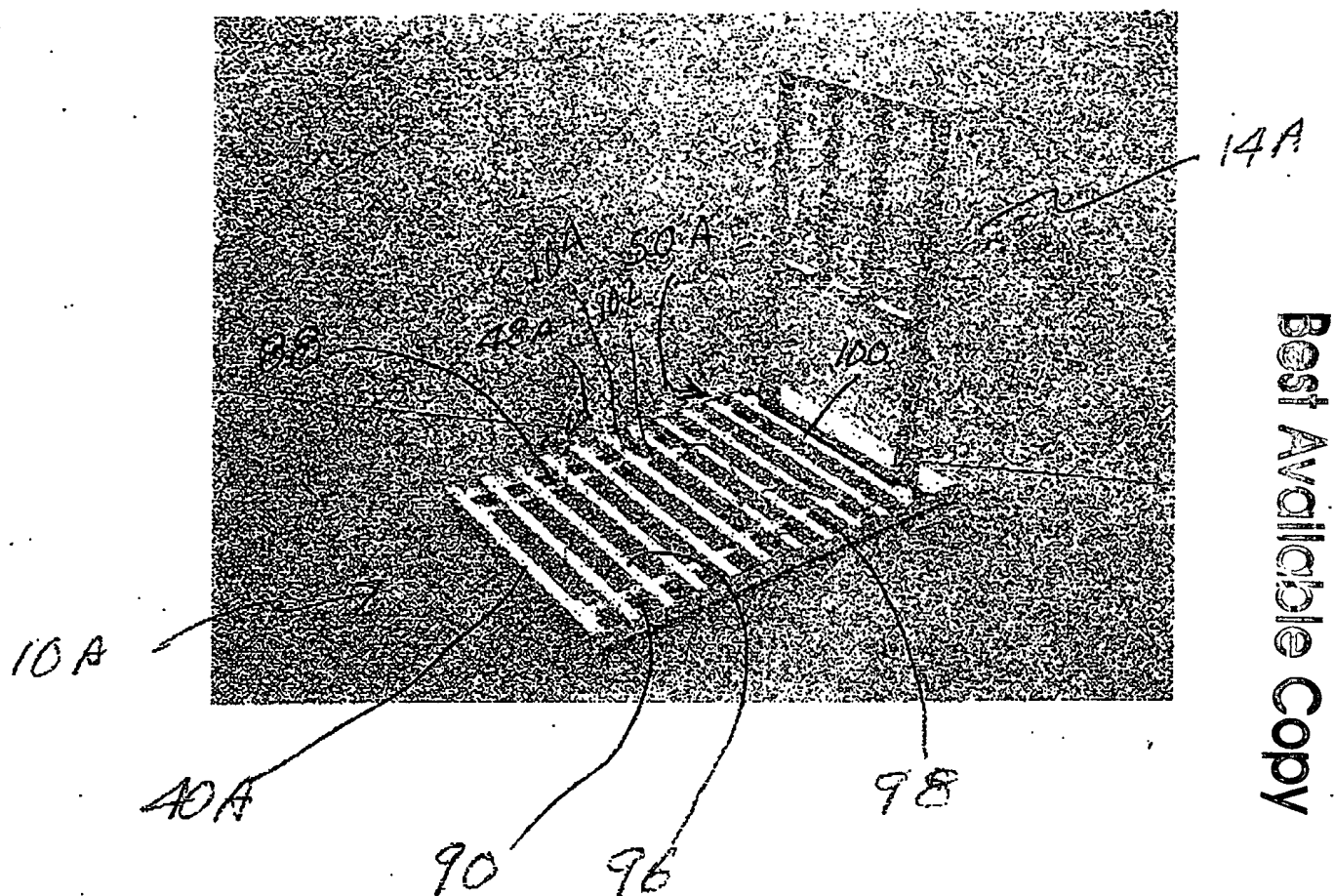


EXH 6



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EXA 7.



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EXH B